

### REMARKS

The present application was filed on January 30, 2004 with claims 1-20. Claims 1-20 are pending in the application. Claims 1, 19 and 20 were the pending independent claims prior to the amendments made herein.

Claims 1-3, 5, 9-15 and 19 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,850,523 (hereinafter “Karr”).

Claims 4 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Karr.

Claims 16-18 are rejected 35 U.S.C. §103(a) as being unpatentable over Karr in view of U.S. Patent No. 6,671,758 (hereinafter “Cam”).

Claims 6-8 are indicated as containing allowable subject matter.

In this response, Applicants respectfully traverse the §102(e) and §103(a) rejections, and amend claims 1, 6-8, 11, 19 and 20. Applicants respectfully request reconsideration of the present application in view of the remarks to follow.

With regard to the §102(e) rejection, Applicants initially note that MPEP §2131 specifies that a given claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim,” citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully traverse the §102(e) rejection on the ground that the Karr reference fails to teach or suggest each and every limitation of claims 1-3, 5, 9-15 and 19 as alleged.

Independent claim 1 is directed to a method for link layer device polling of a plurality of ports of one or more physical layer devices connectable to the link layer device in a communication system. The method includes the steps of designating at least one of the plurality of ports as a port for which status information is to be requested by the link layer device on a more frequent basis than such information is to be requested for one or more other ports of the plurality of ports, and polling

the plurality of ports in accordance with a non-linear polling sequence such that the at least one designated port is polled more frequently than the one or more other ports.

In an illustrative embodiment of the invention, a given one of the ports of a physical layer device 104 is designated for more frequent polling in accordance with a non-linear polling sequence. The designated port in the example of FIG. 4 is the port denoted MPHY2. See the specification at page 11, lines 15-19. As shown in FIG. 4, a data transfer is initiated to MPHY2 by the TENB signal going to its active low state. While the TENB signal is in its active low state for the data transfer, MPHY2 is polled more frequently than it otherwise would, in accordance with a non-linear polling sequence that can be seen in the addresses present in the TADR signal. The sequence proceeds in the order 1, 2, 2, 2, 3, 2, 4, 2, 5 and so on.

The Examiner in formulating the §102(e) rejection argues that each and every limitation of claim 1 as described above is met by the teachings in Karr, and more specifically the teachings in FIG. 6 and column 7, line 65, to column 8, line 19, of Karr. See the Office Action at pages 2-3, Section 1, first three paragraphs. Applicants respectfully disagree. The Examiner apparently believes that the second appearance of address B in the TADR signal in FIG. 6 of Karr, while the TENB is in its deasserted or inactive high state, constitutes a polling of address B. However, this particular appearance of address B in the TADR signal is not a polling of address B. To the contrary, Karr at column 6, lines 9, describes the relation of the TENB and TADR signals as follows, with emphasis supplied:

Packet-level transfer operates with a selection phase when TENB is deasserted and a transfer phase when TENB is asserted. While TENB is asserted, TADR[4:0] is used for polling TPA.

Thus, polling in the FIG. 6 arrangement of Karr occurs only when the TENB signal is asserted, that is, in its active low state. The appearance of address B in the TADR signal of FIG. 6 while the TENB is deasserted is for purposes of selecting MPHY B as “the next packet destination.” See Karr at column 8, lines 3-8. As indicated above, it is not a polling of address B. This is further apparent

from the fact that Karr states that after this selection phase, “the polling process may be recommenced.” See Karr at column 8, lines 11-12. Thus, it appears that the polling sequence used in FIG. 6 of Karr, which occurs when TENB is asserted or in its active low state, is A, B, C, A, C. It is unclear, however, whether any particular address in Karr is designated for more frequent polling than another address from the limited portion of the polling sequence that is shown in FIG. 6. For example, if the next address polled is B, each of the addresses will have been polled with exactly the same frequency. Applicants therefore respectfully submit that the Karr reference fails to meet the limitations of claim 1 relating to designation of at least one port for more frequent polling than another port. No particular port is designated in Karr for more frequent polling. To the contrary, Karr appears to skip the address B in the polling sequence because B was just selected as the destination for the next packet. With reference to FIG. 10 of Karr, it appears that a linear polling sequence of A, B, C, D, E is followed. The second appearance of address B in the TADR signal is for purposes of selecting B as “the next packet source.” Again, this selection is not a polling of address B. See Karr at column 13, lines 6-17.

Notwithstanding the foregoing traversal, Applicants have amended independent claims 1, 19 and 20 to expedite the prosecution. These claims as amended recite that the non-linear polling sequence continues for a period of time during which the at least one designated port remains so designated, and further that the sequence includes multiple polling instances at least two of which involve polling of a given such designated port. Support for the amendment can be found in the specification at, for example, page 10, lines 8-25. Given the traversal, Applicants submit that this amendment is not made for reasons relating to patentability over the cited Karr and Cam references, which collectively fail to meet the limitations of the claims as originally filed.

Dependent claims 6-8 have been rewritten in independent form in view of the above-noted indication of allowable subject matter.

In view of the above, Applicants believe that claims 1-20 are in condition for allowance, and respectfully request withdrawal of the §102(e) and §103(a) rejections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph B. Ryan". The signature is fluid and cursive, with the first name "Joseph" and last name "Ryan" clearly distinguishable.

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